

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

J.S., a minor by his parent, P.S., and on his own behalf,)	
)	Magistrate Judge Patricia L. Dodge
)	
Plaintiff,)	No. 2:18-cv-1713
)	
v.)	
)	
Keystone Oaks School District,)	
)	
)	
Defendant.)	
)	

APPENDIX TO CONCISE STATEMENT OF FACTS

Volume 3

Respectfully submitted,

RUDER LAW, LLC

Date: July 10, 2019

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1 P. [REDACTED] - Cross

2 complete your answer?

3 THE WITNESS: Yes.

4 HEARING OFFICER MCCELLIGOTT: We are ready
5 for the next question.

6 Q. Were you present at the meeting with Officer
7 Bruner and Mr. Kattan and your child?

8 A. Yes.

9 Q. You were there?

10 A. Yes.

11 Q. So you were there during the conversations
12 when asked what he would do if the student had a
13 boyfriend, he said he would watch him burn; you were
14 there?

15 A. No, I was not there.

16 Q. So when you make statements as to what you
17 believe Officer Bruner said, that was based upon what
18 you son told you?

19 A. What my son told me, yes.

20 Q. Did your son tell you that he would also
21 like to watch a husband that this particular female
22 may have burn later in life?

23 A. No, he did not tell me that.

24 Q. He didn't tell you about that?

25 A. No.

1 P. [REDACTED] - Cross

2 Q. Did he tell you that if she had any
3 boyfriends that he would watch them burn?

4 MS. MODELL: Objection.

5 HEARING OFFICER McELLIGOTT: Wait.
6 Objection?

7 MS. MODELL: I'm going to object as far as
8 badgering and she's reading entire E-mails that are
9 already entered into evidence.

10 HEARING OFFICER McELLIGOTT: I am going to
11 overrule the objection. The witness has asserted
12 what is relayed in the E-mail is not accurate from
13 her perspective. So I hear the question as detailing
14 the witness's understanding in that regard.

15 So objection overruled. You can answer the
16 question.

17 Q. So it's after this E-mail that you agreed to
18 take your son to Western Psych?

19 A. Yes.

20 Q. So although you dispute the content of the
21 E-mail today, when you received it October 20, 2015,
22 you took action in response to this; is that correct?

23 A. Yes.

24 Q. And you took your son to Western Psych?

25 A. Yes.

1 P. [REDACTED] - Cross

2 Q. And if we go to the E-mail above that, it is
3 dated October 22, and again, it is from Mr. Kattan to
4 you, and he's seeking to confirm the meeting on
5 October 23?

6 MS. MODELL: I didn't hear the question.

7 MS. LANE: Waiting for her to finish her
8 review.

9 THE WITNESS: Yes, I remember this.

10 Q. Do you recall speaking to Mr. Kattan on the
11 phone between these E-mails?

12 A. No.

13 Q. Did you report back to the District that you
14 had completed your evaluation at Western Psych?

15 A. Yes, I told them I went to WPIC.

16 Q. WPIC?

17 A. Yes.

18 Q. When did you tell them that?

19 A. I told them that they said there was nothing
20 wrong with my son.

21 Q. My question is a little more nuanced than
22 that. Did you send an E-mail or did you call the
23 District to inform them?

24 A. I am not sure. It was 2016. I am not sure.
25 We are in 2018 now.

1 P. [REDACTED] - Cross

2 Q. It was, actually, 2015. So, yeah, I agree
3 that that was some time ago. The E-mail from
4 Mr. Kattan asks you to please bring paperwork from
5 the doctor so the District is aware of the
6 recommendation?

7 A. Uh-huh.

8 Q. Did you bring any paperwork from the WPIC?

9 A. I am not sure.

10 Q. So as of today, you're not sure, but at that
11 point in time, the District, at least from their
12 perspective, believed you had paperwork and asked you
13 to bring it to this meeting?

14 A. They didn't give me no paperwork. I told
15 you the doctor said there is nothing wrong with my
16 son. He is a typical teenager, his hormones were
17 raging.

18 And this early psychosis, I don't know where
19 you come up with that. I don't have no documentation
20 of that, nor do I have paperwork.

21 Q. There is -- I am sorry. There is, on Page 5
22 of 25, the same exhibit --

23 A. 5 of 20 --

24 HEARING OFFICER McELLIGOTT: The next page,
25 ma'am.

1 P. [REDACTED] - Cross

2 Q. School District 22, Page 5. There is an
3 E-mail, it appears to be one, two, three -- I want to
4 draw your attention to the third E-mail which is
5 again between you and Mr. Kattan; do you see where I
6 am?

7 A. Uh-huh.

8 Q. Again, it appears to be conversation about
9 having that October 23 meeting and asking for someone
10 to bring you to the school; is that correct?

11 A. Correct.

12 Q. And then the prior E-mail is, again, from
13 you to Mr. Kattan, and you're acknowledging that you
14 will be in attendance, but you need a ride; is that
15 correct?

16 A. Correct.

17 Q. At that meeting on October 23, you recall
18 Ms. Burns being in attendance; is that correct?

19 A. Ms. Burns was always in attendance. She is
20 in Special Education classes. Why wouldn't she be?

21 Q. I would like to draw your attention to
22 Exhibit 10?

23 A. What page are you on?

24 (School District Exhibit No. 10 was marked
25 for identification and admitted into evidence.)

1 P. [REDACTED] - Cross

2 HEARING OFFICER McELLIGOTT: Is that School
3 10?

4 MS. LANE: School 10, Page 1 of 2.

5 HEARING OFFICER McELLIGOTT: In that book.

6 Tab 10, ma'am. Ma'am? Ms. S [REDACTED], the tabs --

7 THE WITNESS: This one?

8 HEARING OFFICER McELLIGOTT: No. The tabs.
9 There you go.

10 Q. If you would go to Page 2 of this exhibit,
11 at the top of the paper, is that your handwriting?

12 A. Yes.

13 MS. MODELL: That doesn't correspond to
14 anything we have.

15 THE WITNESS: What do you need my
16 handwriting for?

17 HEARING OFFICER McELLIGOTT: One second,
18 ma'am. There is no question on the table. I have it
19 S-10, on Page 2, a handwritten note. Page 2.

20 THE WITNESS: Got it.

21 HEARING OFFICER McELLIGOTT: One second,
22 please, Ms. Lane.

23 (Reporter read back from the record.)

24 HEARING OFFICER McELLIGOTT: The witness
25 confirmed that is her handwriting. We are ready for

1 P. [REDACTED] - Cross
2

the next question.

3 Q. That's your contact information, the phone
4 number listed on the document?

5 A. Yes.

6 Q. If you go to the first page of the document,
7 you will notice there was a number of names towards
8 the right-hand margin, and it appears to be
9 referencing October 23, 2015, at 8 a.m. Was the
10 October 23 meeting, if you recall, early in the
11 morning at 8:00?

12 A. I don't even see where you are. Where are
13 you?

14 HEARING OFFICER McELLIGOTT: Are you on Page
15 1 of the document, ma'am?

16 THE WITNESS: Yes.

17 Q. Do you see it at the top, there is a date
18 entry and a time?

19 A. Yes, October 23, 8:00 a.m.

20 Q. Do you recall that meeting occurring around
21 that time frame?

22 A. Yes.

23 Q. And towards the right-hand margin, the names
24 listed is Kattan, Burns, Palmieri, mom, and [REDACTED]

25 A. Uh-huh.

1 P. [REDACTED] - Cross

2 Q. Do you recall those individuals being
3 present at that October 23 meeting?

4 A. Yeah.

5 Q. So it was both you and [REDACTED] in
6 attendance?

7 A. Uh-huh.

8 Q. Okay.

9 HEARING OFFICER McELLIGOTT: Yes or no?

10 THE WITNESS: Yes.

11 Q. There is a reference within the notation,
12 you, in your direct questioning stated that the
13 doctor, basically, said nothing was wrong with
14 [REDACTED] he was hormonal, and there was no
15 follow-up.

16 Wasn't there a follow-up appointment that
17 you were going to go back to WPIC?

18 A. No. There was no follow-up.

19 Q. So when the School District references,
20 please bring the documentation, that is inaccurate?

21 A. That was not accurate, because he wasn't
22 diagnosed with anything. If he was diagnosed, I
23 would be more than happy to bring you any
24 documentation that they have given me.

25 MS. LANE: We will note for the record that

1 P. [REDACTED] - Cross

2 we have requested that Western Psych evaluation, and
3 according to counsel, they are working on getting it.

4 Q. There was a reference within the document as
5 to you going back to the doctor on Tuesday. Did you
6 have a different doctor appointment than WPIC
7 following this meeting?

8 A. That was his well child appointment doctor.

9 Q. And what was the purpose of attending the
10 well child visit?

11 A. He gets checkups. You get your normal
12 checkup every year.

13 Q. Did you attend the intake meeting at Wesley
14 Spectrum?

15 A. Yes, I did.

16 Q. Did Ms. Burns take you to that appointment?

17 A. Wesley Spectrum, no. My girlfriend took me
18 for the registration.

19 Q. So that was the intake meeting?

20 A. That was the registration. The way they
21 told me was that you all planned for [REDACTED] to
22 attend that school. I took him there. I had all the
23 paperwork to fill out. The day I filled the
24 paperwork out, the next day he was to start. He
25 didn't come back here to Keystone Oaks.

1 P. [REDACTED] - Cross

2 Q. So you don't believe he came back after that
3 October 23 meeting?

4 A. Oh, yeah. He was back here. I am talking
5 about when I registered him for Wesley Spectrum.

6 Q. So November is when he would have started
7 attending --

8 A. He started November 6, if I am not mistaken.

9 Q. Did you work with a Melissa Palmieri in the
10 intake meetings at Wesley Spectrum; is that name
11 familiar to you?

12 A. I am not sure, ma'am. That has been some
13 time ago.

14 Q. Okay. When you enrolled your son in
15 Keystone Oaks, you filled out an enrollment form with
16 whatever relevant information you would have about
17 your son, where you live, who lives in your home; do
18 you remember that process?

19 A. Yeah. It was like, you know, what you fill
20 out, you have to bring documents to make sure that
21 you're appropriate and you live in the right school
22 district.

23 Q. So we have what is a combined exhibit. It
24 should be Exhibit 3 and 4, and Pages 1 through 38.
25 And we are referring to this as kind of like a

1 P. [REDACTED] - Cross

2 permanent record that includes [REDACTED] grades, but
3 also enrollment documentation.

4 So if you go towards the -- those are your
5 signatures, Page 16 of 36.

6 (School District Exhibit No. 3 was marked
7 for identification and admitted into evidence.)

8 HEARING OFFICER McELLIGOTT: If you would
9 identify the page for me, Ms. Lane?

10 MS. LANE: 16 of 36.

11 HEARING OFFICER McELLIGOTT: Right. I am
12 working across both of those.

13 MS. LANE: I am sorry. It says 36 on the
14 bottom.

15 HEARING OFFICER McELLIGOTT: Right. The
16 page numbers don't exactly match up for me, which is
17 fine, but what does it say at the top of the page,
18 what am I looking for?

19 MS. LANE: If you look at the bottom, it is
20 not saying School District 4, Page 12 of 36 or 16 of
21 36, on your documents, it doesn't say that?

22 HEARING OFFICER McELLIGOTT: Well, I have
23 S-4, it is a 36-page document. I thought you were
24 combining 3 and 4 into a 38-page document.

25 MS. LANE: Actually, the first two pages is

1 P. [REDACTED] - Cross

2 what should have been the first two pages of the
3 entire document. That was a mistake.

4 HEARING OFFICER McELLIGOTT: So your
5 reference today is going to be to S-4 as produced?

6 MS. LANE: Just so that -- for ease of Ms.
7 [REDACTED], at the bottom of the page, when I direct
8 her attention to it, it says S-4, Page 12 of 36.

9 HEARING OFFICER McELLIGOTT: And at the top,
10 it says, request for school records?

11 MS. LANE: Right.

12 HEARING OFFICER McELLIGOTT: Okay. Go to
13 Tab 4, ma'am, and then Page 12 of 36. And at the
14 top, it will say request for school records; do you
15 have that, ma'am?

16 THE WITNESS: Yes.

17 Q. Do you recognize your signature at the
18 bottom?

19 A. Yes.

20 Q. The forms we talked about, you said you were
21 familiar with enrolling your son?

22 A. Yes.

23 Q. So the prior school district, was that
24 Sto-Rox?

25 A. Yes.

P. — Cross

2 Q. So this form is asking you to agree to send
3 any information that the prior school would have had
4 for [REDACTED]

5 A. Yes.

6 Q. And did he attend Sto-Rox pretty much from
7 age of entry, kindergarten until he came to Keystone?

8 A. No. He did not. He attended Sto-Rox in
9 sixth grade. He attended Wooldslair from kindergarten
10 to fifth grade.

11 Q. Is that Pittsburgh Public, Woolslair?

12 A. Yes. It is in Bloomfield.

13 Q. So there was a point in time he was in
14 Pittsburgh Public?

15 A. Uh-huh.

16 Q. It is your testimony that through all that
17 period, he had never been identified --

A. Never ever.

19 Q. I want you to look at page -- Exhibit 7.

20 (School District Exhibit No. 7 was marked
21 for identification and admitted into evidence.)

22 HEARING OFFICER MCCELLIGOTT: Tab 7, ma'am.

23 Ma'am, not Page 7, Tab 7.

24 Q. So this document has been identified as a
25 series of E-mails between you and school staff over

1 P. [REDACTED] - Cross

2 concerns with [REDACTED] math performance; do you
3 recall those communications?

4 A. Yeah.

5 Q. This is occurring in February of 2015, these
6 E-mails, at that time, you are questioning -- you
7 said you had concerns with his grades?

8 A. Yes. I had concerns with his grade when he
9 was at Sto-Rox. That is how I could tell something
10 was wrong with my son.

11 Q. There is a reference to occupation therapy.
12 Where had [REDACTED] received -- or had he ever
13 received occupational therapy?

14 A. He received it at Sto-Rox because his
15 penmanship was not great, so when he would write, the
16 words would go together and it seemed like one long
17 word. So they gave him the occupational therapy
18 machine and it was better for the teachers, as well
19 as himself to use this so they could understand what
20 he was doing.

21 HEARING OFFICER McELLIGOTT: Approximately,
22 30 minutes remain.

23 Q. So there was a point in time when the
24 District sent you a Permission to Evaluate form?

25 A. Uh-huh.

1 P. [REDACTED] - Cross

2 Q. And initially the document sought permission
3 specifically for occupational therapy, OT services?

4 A. Right.

5 Q. And then you, as you stated, had concerns
6 with performance in math?

7 A. His grades.

8 Q. So the District then sent a reissued
9 permission for your consent to allow testing for --
10 to address those concerns, the concerns you have, you
11 use the terminology penmanship and then concerns with
12 his grades.

13 Did you have particular concerns as to
14 whether reading, math --

15 A. His basic subjects, reading, math, science,
16 social studies.

17 Q. Do you recall you granted permission for the
18 District to conduct that testing?

19 A. Yes.

20 Q. And following that permission, there would
21 have been a compiled report; do you recall having
22 received a report and having a meeting about that
23 report?

24 A. Yes.

25 Q. And in the white binder are Parent exhibits,

P. — Cross

2 so I would like to direct your attention to P-1 and
3 P-2.

4 (Parent Exhibit Nos. 1 and 2 were marked for
5 identification and admitted into evidence.)

6 Q. So follow the same, looking at the tabs as
7 the -- No. 1 as Exhibit 1. P-1 is a letter dated
8 January 23, to your attention; is that correct?

9 A. Yes.

10 Q. And in it it is asking and identifying to
11 you a Permission to Evaluate consent form, and in the
12 body of the document, it references for OT services,
13 and it informs you that the Allegheny Intermediate
14 Unit will be conducting that evaluation?

15 A. Right.

16 Q. And if you look at Exhibit 2, this is the
17 attached Permission to Evaluate form; are you
18 familiar with it?

19 A. Yes.

20 Q. Okay. And it is dated January 23 of '15,
21 and it's addressed to you?

22 A. Correct.

23 Q. And it proposes in the body, there are
24 blocks, the second block down, it says the evaluation
25 did propose for occupational therapy evaluation?

1 P. [REDACTED] - Cross

2 A. Correct.

3 Q. Okay. And if you go on to what is P-2, Page
4 3 of 4. Is that your signature giving consent to
5 conduct that evaluation?

6 A. Yes, it is my signature.

7 Q. If you go to P-6 --

8 (Parent Exhibit No. 6 was marked for
9 identification and admitted into evidence.)

10 BY MS. LANE:

11 Q. So this is a February 18 letter directed to
12 your attention?

13 A. Uh-huh.

14 Q. And it is referencing, as you and I
15 discussed, a second PTE consent form that was sent to
16 your attention to address concerns with additional
17 testing and evaluation by a school psychologist?

18 A. Uh-huh.

19 HEARING OFFICER MCCELLIGOTT: Yes or no?

20 THE WITNESS: Yes.

21 MS. LANE: Is your P-7 exactly the same, P-6
22 and P-7?

23 MS. MODELL: Yes, I apologize.

24 Q. If you look at P-8, it will be behind the
25 No. 8 tab; do you recognize this form?

1 P. [REDACTED] - Cross

2 (Parent Exhibit No. 8 was marked for
3 identification and admitted into evidence.)

4 Q. Do you recognize this form?

5 A. Yes, I do. It is in my handwriting.

6 Q. Am I correct that this is a form sent to
7 you, as the Parent of [REDACTED] to provide
8 information as part of that evaluation process?

9 A. I am not his caregiver; I am his mother. So
10 why is it caregiver on the top? I am not a
11 caregiver, I am his mother. I am his Parent.

12 Q. You recognize that underneath that it says,
13 Dear Parent/guardian?

14 A. Yes.

15 Q. And you as the Parent filed out this form,
16 you noted it is your handwriting?

17 A. Yes.

18 Q. If you could review this, I would like you
19 to tell us what your concerns were at that time?

20 A. My concerns were what the paper says, his
21 basic skills, his reading, his math, science, social
22 studies, his penmanship.

23 Q. And then School District 9.

24 (Parent Exhibit No. 9 was marked for
25 identification and admitted into evidence.)

1 P. [REDACTED] - Cross

2 HEARING OFFICER McELLIGOTT: School 9 or
3 P-9.

4 MS. LANE: School 9 -- I am sorry, P-9.
5 These were originally proposed as Joints.

6 HEARING OFFICER McELLIGOTT: Are you on P-9,
7 ma'am?

8 THE WITNESS: Yes.

9 Q. Are you familiar with this particular
10 document?

11 A. This document doesn't look like any -- I
12 mean, I am used to the NOREP, but this document does
13 not look familiar to me.

14 Q. If you go to the blue binder, there is a Tab
15 5 exhibit I would like to you review.

16 (School District Exhibit No. 5 was marked
17 for identification and admitted into evidence.)

18 Q. Are you familiar with this document?

19 A. Yes.

20 Q. This is an invitation to participate in a
21 meeting?

22 A. Correct.

23 Q. And the document is marked as "other
24 discussed", and it appears to have the R's crossed
25 out for -- and added above it, and the E to say

1 P. [REDACTED] - Cross

2 Evaluation Report?

3 A. Uh-huh.

4 HEARING OFFICER McELLIGOTT: Yes or no?

5 THE WITNESS: Yes.

6 Q. On the second page, is that your signature
7 agreeing to attend the meeting to discuss --

8 A. Yes. In 2015, that is my signature.

9 Q. Do you recall having such a meeting to
10 discuss the Evaluation Report, which would be the
11 findings of the testing for your son?

12 A. That was the meeting in 2015, and we are in
13 '18. As far as what the meeting entailed, I don't
14 remember that.

15 Q. Is it your testimony today that you were
16 never in attendance at a meeting to discuss an
17 Evaluation Report, or are you saying you just don't
18 have specific recall of that meeting?

19 A. I was always in the meeting pertaining to my
20 son. What I am saying to you is that is back then,
21 in 2015. It is 2018 now is what I am saying to you.

22 Q. Thank you. We all appreciate the difficulty
23 presented by the time frame. I just want the record
24 to be clear that you were in attendance, but perhaps
25 don't have specific recall of the meeting?

1 P. [REDACTED] - Cross

2 A. Yes.

3 Q. So we have on Page 16 of 20, and that is in
4 the Parent binder, which is -- P-9, Page 16 of 20.

5 HEARING OFFICER McELLIGOTT: The other
6 binder, ma'am. You should be there. P-9, in the
7 lower right.

8 THE WITNESS: 16 of 20 she said?

9 HEARING OFFICER McELLIGOTT: No. No. P-9,
10 16 of 21.

11 BY MS. LANE:

12 Q. Do you recognize your signature on the
13 document?

14 A. Yes.

15 Q. So this is indicating that you are in
16 attendance at a meeting to review P-9, which is the
17 Evaluation Report?

18 A. Uh-huh.

19 HEARING OFFICER McELLIGOTT: Yes or no?

20 THE WITNESS: Yes.

21 BY MS. LANE:

22 Q. Following that meeting, do you recall
23 attending a meeting to develop the IEP, the plan, for
24 your son?

25 A. Yes.

1 P. [REDACTED] - Cross

2 Q. If we can go to -- it is, I believe it
3 should be P-11.

4 (Parent Exhibit No. 11 was marked for
5 identification and admitted into evidence.)

6 BY MS. LANE:

7 Q. Are you at P-11?

8 A. Yes.

9 Q. Are you familiar with this document?

10 A. Yes.

11 Q. And this is your son's IEP for the time
12 frame of May 8 of 2015; is that correct?

13 A. Yes.

14 Q. If we go on to Page 2 of 23, there are a
15 list of signatures; is your signature on this
16 document?

17 A. Yes.

18 Q. So you were present for the IEP meeting?

19 A. Yes.

20 Q. And on the third page, there is another
21 signature; is that your signature?

22 A. Yes.

23 Q. Indicating that you received the Procedural
24 Safeguards regarding your rights under Special
25 Education as a Parent for your child?

1 P. [REDACTED] - Cross

2 A. Yes.

3 Q. This particular document identifies
4 information for the Evaluation Report, as well as
5 information shared by you; is that correct?

6 A. Yes.

7 Q. And it has a list of his strengths on Page
8 6, and it mirrors your testimony that he is polite
9 and respectful, has average ability in verbal
10 comprehension, oral reading, oral expression,
11 vocabulary and listening?

12 A. Yes.

13 Q. And you see underneath that, it has a
14 designation as to academics and a statement that
15 begins with [REDACTED] needs?

16 A. What page are you on?

17 Q. I am sorry, I am on Page 6 of 27. It is in
18 the far right corner.

19 A. Yes.

20 HEARING OFFICER McELLIGOTT: It is the same
21 page we were on, ma'am. The entry right underneath
22 the strengths.

23 THE WITNESS: You said 6 of 27? Yeah, I see
24 it on the bottom.

25 Q. Is this information provided in the IEP, is

1 P. [REDACTED] - Cross

2 that similar to your concerns as to areas your son
3 needed to have assistance?

4 A. But there is no social skills in here.

5 Q. Do you agree with the other information
6 contained within?

7 A. Yes.

8 Q. If you go up to Parental concerns, it would
9 be the first bullet, there is a black dot indicating
10 Parental concerns, and is that a summary of the
11 information we reviewed from your Parent input form?

12 A. Once again, I am not his guardian. I am his
13 Parent. I am his mother.

14 Q. We fully understand that. It is just a form
15 so that it covers all. Is this the information that
16 you provided in your Parent form?

17 A. Yes.

18 Q. Did you provide the School District
19 permission to implement this program; did you sign a
20 NOREP so that he could begin -- this would have been
21 his first IEP -- so he could begin to receive these
22 services?

23 A. Yes.

24 Q. I am trying to find your NOREP, I am sorry.
25 Can you go to blue binder, School District 9 includes

1 P. [REDACTED] - Cross
2

the NOREP.

(School District Exhibit No. 9 was marked
for identification and admitted into evidence.)

HEARING OFFICER McELLIGOTT: I only have a
one-page exhibit at S-9.

THE WITNESS: I only have a one-page, too,
as well. I don't have a NOREP here.

MS. LANE: Did you include the NOREP in the
documents?

MS. MODELL: I included all the documents
you sent me, so --

HEARING OFFICER McELLIGOTT: Well, let me
say this. I don't hear any dispute. I hear the
witness to say that she completed the NOREP. Is
there a factual dispute that the NOREP was not --

MS. MODELL: No. I will stipulate that she
signed the NOREP.

HEARING OFFICER McELLIGOTT: So in May of
2015, the NOREP is in place.

THE WITNESS: Well, they had all that
documentation, so it should be here.

Q. There is no question posed, so wait until I
get the form and I will ask you a question.

The NOREP would have been shared with

1 P. [REDACTED] - Cross

2 counsel in the documents and were noted as what would
3 be filed in the Joint exhibit. The NOREP is attached
4 in the District's document to the IEP. I don't know
5 why it wasn't uploaded, but I certainly have a copy
6 here and will be putting it into evidence.

7 May I show this to the witness?

8 HEARING OFFICER McELLIGOTT: Well, let me
9 get a copy so that Ms. Modell can see it.

10 MS. MODELL: I have already --

11 MS. LANE: I just want to make sure it is in
12 the record.

13 HEARING OFFICER McELLIGOTT: I am
14 approaching Ms. Lane's counsel table, and I am going
15 to show this to Ms. Modell. To the extent that the
16 document is stipulated to, we will bring it in as an
17 exhibit, but I don't -- do we need to talk about the
18 document if there is any --

19 MS. LANE: I want the document in the
20 record.

21 HEARING OFFICER McELLIGOTT: Any objection?

22 MS. MODELL: No objection.

23 HEARING OFFICER McELLIGOTT: Can you make
24 copies?

25 MS. LANE: Do you want to attach it to 9 or

1 P. [REDACTED] - Cross
2 have a whole other exhibit.

3 HEARING OFFICER McELLIGOTT: I would rather
4 not have to repaginate. So let's enter it as P-11A,
5 so it will come right after the IEP, so when we get
6 that back, we will mark it as such.

7 Do you want to wait until that returns to
8 question the witness about it, Ms. Lane, or do you
9 want to continue? It is up to you.

10 BY MS. LANE:

11 Q. Your counsel stipulated that you, in fact,
12 signed the NOREP and allowed your son to receive
13 Special Education Services; is that correct?

14 A. Correct.

15 Q. If you can go to, again, in the white
16 binder, which is P-12.

17 (Parent Exhibit No. 12 was marked for
18 identification and admitted into evidence.)

19 Q. After October 23, or on that date, you were
20 at a meeting, we reviewed paperwork listing that you
21 and your son were present, you recalled Ms. Burns
22 being present because she had given you a ride to the
23 school, Mr. Kattan you also recalled being there, and
24 his Special Ed teacher was present; is that correct?

25 A. If that is that lady with the -- like I

1 P. [REDACTED] - Cross

2 said, I don't know who that is.

3 Q. That is fair. We went through, you agree
4 that as far as you do specifically recall, Mr. Kattan
5 Ms. Burns, you and [REDACTED] being in a meeting on
6 October 23?

7 A. Of what year?

8 Q. Of 2015.

9 A. Yes.

10 Q. Thank you. Do you recall discussions of
11 when [REDACTED] was going to return to school that he
12 would receive -- meet with the District mental health
13 therapist, someone they had on staff?

14 A. Yes, I did.

15 Q. I am directing your attention to P-12. At
16 the bottom of the page is an area that says the LEA,
17 meaning the School District and Parent, have agreed
18 to make the following changes to an IEP without
19 convening an IEP meeting, and this particular -- the
20 blocks on the page references October 23 of 2015; do
21 you see where I am?

22 A. Uh-huh.

23 Q. You would agree with me that it references a
24 change to the program as having [REDACTED] meeting with
25 a mental health therapist on an as-needed basis and

1 P. [REDACTED] - Cross

2 receive accommodations to help manage emotions at
3 that time; did I read that correctly?

4 A. Yes. He had a mental health therapist who
5 evaluated him and I no longer wanted her to be his
6 mental health therapist.

7 Q. So this particular time, that was a service
8 offered?

9 A. Yes.

10 Q. There may have been changes in the future --

11 A. There was changes --

12 Q. But at this particular time, there was
13 discussion and the change to his program to add that
14 level of service; correct?

15 A. Yes. Yes.

16 HEARING OFFICER McELLIGOTT: The copies of
17 P-11A have been returned, so let's -- before we lose
18 the thread, bring the NOREP in as P-11A.

19 (Parent Exhibit No. 11A was marked for
20 identification and admitted into evidence.)

21 MS. LANE: Thank you.

22 HEARING OFFICER McELLIGOTT: Ms. Modell is
23 handing a copy of P-11A to the witness. If you would
24 just put that in the front binder of the white
25 notebook, the front page.

1 P. [REDACTED] - Cross

2 We will continue, Ms. Lane.

3 BY MS. LANE:

4 Q. I would like you to go to -- in this
5 particular exhibit, it would be Page 2 of 3, and we
6 are still in P-12.

7 A. You said page what?

8 HEARING OFFICER McELLIGOTT: Same document,
9 just turn the page, ma'am.

10 THE WITNESS: You said P-12, Page 2?

11 HEARING OFFICER McELLIGOTT: That's right.

12 Q. You're on the right page.

13 A. No, I'm not.

14 HEARING OFFICER McELLIGOTT: She needs to
15 turn the page. There you go.

16 THE WITNESS: I only have Page 6, Page 1 to
17 Page 6.

18 MS. MODELL: You're on the correct page.

19 HEARING OFFICER McELLIGOTT: One second. In
20 the lower left-hand corner of that document, ma'am,
21 do you see where it says P-12, Page 2 of 3?

22 THE WITNESS: I see P-12, Page 1 of 3.

23 HEARING OFFICER McELLIGOTT: Turn the next
24 page. Do you see where it says P-12, Page 2 of 3?

25 THE WITNESS: Okay.

1 P. [REDACTED] - Cross

2 HEARING OFFICER McELLIGOTT: We are always
3 referring to those numbers, regardless of what is
4 pre-printed on the page, that is that exhibit page
5 number.

6 THE WITNESS: All right. Thank you.

7 HEARING OFFICER McELLIGOTT: Are you there?

8 THE WITNESS: Yes.

9 Q. I want to direct your attention, there is
10 information that has the date 10/23/15?

11 A. Yes.

12 Q. And this is information that you and the
13 team agreed to add to the IEP regarding [REDACTED]
14 anger with peers and staff and feeling emotional, and
15 references, again, him meeting with the mental health
16 therapist; do you recall that discussion with Ms.
17 Burns and Mr. Kattan on October 23?

18 A. Yes.

19 Q. And it'll just be the very next page, and it
20 is like a chart; are you on that page?

21 A. Yes.

22 Q. The very bottom, last chart entry, and
23 you -- if you move over the four blocks, it has a
24 date, and what is the date listed there?

25 A. 10/24/15.

1 P. [REDACTED] - Cross

2 Q. So that was the day after the meeting, this
3 is a service that is going to begin for [REDACTED] in
4 school, that he would have -- and you use the
5 reference time-outs to process with the mental health
6 therapist?

7 A. Correct.

8 Q. Do you recall discussions of that service
9 for [REDACTED]

10 A. Yes.

11 Q. Was there a point in time, still in the end
12 of October time frame, you mentioned you went with
13 your girlfriend and [REDACTED] to Wesley Spectrum, was
14 there a time frame where your Medicaid or Medicare
15 had lapsed?

16 A. [REDACTED] Medicaid has never lapsed. He
17 still gets medical, even right now.

18 Now, I do have a meeting coming up this
19 Wednesday because I filed an appeal, but until I
20 filed the appeal to state that he is autistic now
21 that they won't cut it off because I got new
22 documentation from another doctor, which I did not
23 want to give to Keystone Oaks because they sat there
24 and mistreated my child all this time. I felt there
25 was no need for them to have this documentation of

1 P. [REDACTED] - Cross

2 the neuropsychology.

3 HEARING OFFICER McELLIGOTT: Does that
4 complete your answer?

5 THE WITNESS: Yes.

6 HEARING OFFICER McELLIGOTT: Ready for the
7 next question.

8 Q. As best as you can recall at the time that
9 you were visiting Wesley Spectrum, your contention
10 was that you had full medical care and that there
11 wasn't any reason to deny his entry under partial
12 hospitalization?

13 A. His medical has never been terminated. Like
14 I said, he still has medical now. I have a court
15 hearing to go to this coming Thursday.

16 Q. Okay. I would like you to look at P-16.

17 (Parent Exhibit No. 16 was marked for
18 identification and admitted into evidence.)

19 Q. Are you familiar with this particular
20 document in P-16?

21 A. I have seen this document, but no, I am not
22 familiar with it.

23 Q. You have seen it before and it is directed
24 to your attention?

25 A. Yes.

1 P. [REDACTED] - Cross

2 Q. What is the date that the document is sent
3 to you, typed in?

4 A. I see November the 6th, 2015, the document.

5 HEARING OFFICER McELLIGOTT: Is that on Page
6 1, ma'am? Are you on the first page? I am in the
7 NOREP; is that correct?

8 MS. LANE: You are.

9 HEARING OFFICER McELLIGOTT: I don't know if
10 the witness is in a NOREP.

11 Q. Are you there in the white binder, page --
12 School District -- Parent 16, Tab 16.

13 (Discussion held off the record.)

14 Q. So the date on this particular document, it
15 is directed to your attention, and it is dated
16 November 4 of '15?

17 A. Yes.

18 Q. And I had asked you, and we were on the
19 wrong exhibit, are you familiar with this particular
20 document?

21 A. Yes.

22 Q. And this is a document that seeks your
23 consent to implement any changes to your son's
24 program; is that your understanding?

25 A. Yes.

1 P. [REDACTED] - Cross

2 Q. Is there some time from the period of when
3 you received this document that you were perhaps
4 delaying or considering whether or not you would sign
5 it?

6 A. Yes.

7 Q. And is that perhaps answerable as to why you
8 don't sign your consent until February -- I believe
9 your signature is, if I read it correctly, February 8
10 of '16 is when you grant your approval?

11 A. Uh-huh.

12 HEARING OFFICER McELLIGOTT: Page 3, ma'am.
13 Page 3. The witness is on the page, if we could have
14 the question again, Ms. Lane.

15 Q. Do you grant your approval, with your
16 signature, on February 8 of '16?

17 A. Yes.

18 Q. And you would agree that there is some
19 period of time from when the NOREP was sent to you on
20 November 4 that you were reviewing or considering
21 whether or not you would give your consent?

22 A. Right.

23 Q. Do you recall having meetings with staff at
24 Wesley asking you to formally prepare -- finish and
25 complete these documents, the NOREP?

1 P. [REDACTED] - Cross

2 A. No.

3 Q. You don't have any recall of that?

4 A. No. Like I said, I didn't sign the NOREP
5 until after [REDACTED] was in school. I didn't sign
6 the NOREP before he went to school, which I should
7 have signed the NOREP before he went to school. I
8 was just under the impression that I was going to be
9 going for a tour of Wesley, I wasn't aware that they
10 were going to put my child there.

11 Q. So when you received the document on or
12 after November 4, you didn't initially sign it;
13 correct?

14 A. No.

15 Q. And you waited until February to sign it?

16 A. Uh-huh.

17 Q. You've offered to me that is because you
18 were going through whatever thought process as to
19 whether or not you would agree?

20 A. I am a Parent. I am allowed to have second
21 thoughts on things that I want to sign or don't want
22 to sign. That is my right by law.

23 Q. It certainly is, and that is the reason for
24 the delay; correct?

25 A. Yes.

1 P. [REDACTED] - Cross

2 Q. Your son also went through what is called an
3 assisted technology evaluation; do you recall that
4 process?

5 A. Yes.

6 Q. And he was given a device or some app on the
7 laptop to assist him in the programming; do you
8 recall that?

9 A. Yes. Correct.

10 Q. And it was a name -- you used the term
11 Kurzweil in your prior testimony?

12 A. Yes.

13 Q. And that is your recall of the service, the
14 technology that was provided to him?

15 A. Yes.

16 Q. Did he have that when he went to Wesley, did
17 that go with him?

18 A. No.

19 Q. It didn't?

20 A. No.

21 Q. Did he have it here while he was in
22 attendance?

23 A. He had it here at Keystone Oaks.

24 Q. But --

25 A. I don't think he had it at Wesley, no. He

1 P. [REDACTED] - Redirect

2 didn't tell me he had, like, an assertive device at
3 Wesley.

4 MS. LANE: I have no further questions for
5 this witness.

6 HEARING OFFICER McELLIGOTT: Thank you, Ms.
7 Lane. Give me one second, please. Coming up on the
8 30-minute signpost. 31 minutes remain, should you
9 need that coming back.

10 There was a significant amount of time, Ms.
11 Haraldsen, if you have follow-up questions.

12 MS. MODELL: May we have one minute, please?

13 HEARING OFFICER McELLIGOTT: To consult with
14 your co-counsel.

15 MS. MODELL: Yes.

16 REDIRECT EXAMINATION

17 BY MS. MODELL:

18 Q. Ms. S [REDACTED], you testified that you took
19 [REDACTED] to Western Psych for an evaluation in
20 October 2015?

21 A. Yes.

22 Q. Why did you agree to take him to Western
23 Psych?

24 A. Because they wouldn't allow him back in
25 school if I didn't do so.

1 P. [REDACTED] - Redirect

2 Q. Then going to the October 23, 2015 meeting,
3 did the District propose Wesley Spectrum at that
4 meeting?

5 A. Yes, they did.

6 Q. Did they propose anything to keep [REDACTED]
7 at Keystone Oaks?

8 A. Absolutely not.

9 Q. And you testified that the District offered
10 time-outs with the mental health therapist at this
11 meeting; correct?

12 A. Yes.

13 Q. Did they offer scheduled appointments with
14 the mental health therapist?

15 A. Whenever she was available, I think he met
16 with this mental health therapist once a week.

17 Q. But there was not a specific, scheduled
18 time?

19 A. No.

20 Q. Did they offer time in an emotional support
21 room?

22 A. I think that consists of the mental health
23 therapist as well.

24 Q. But they did not offer any time, other than
25 meeting with a mental health therapist in an

1 P. [REDACTED] - Redirect

2 emotional support room?

3 A. No.

4 Q. Did they say that they should have a
5 Functional Behavioral Assessment conducted?

6 A. I think they did, yes. I think they did.

7 Q. Did they do it?

8 A. No.

9 Q. Did they propose intensive social skills
10 training for [REDACTED]

11 A. No, they did not.

12 Q. You testified that Keystone Oaks did not
13 want [REDACTED] why did you say that?

14 A. All the time my child was suspended. He
15 spent more time out of school, being suspended, than
16 in school. Once again, I told you, a child with
17 autism does not readily walk up to a person and
18 introduce themselves. They are quiet. They are shy.
19 And that is how my son is. He is quiet; he is shy.
20 It is going to take him some time to get to know a
21 person and sit there and talk to them.

22 He didn't mean that girl no harm. He wants
23 friends and he had no friends here, and the teachers
24 treated him like crap.

25 MS. HARALDSEN: Thank you. No further

1 P. [REDACTED] - Recross
2 questions.

3 HEARING OFFICER McELLIGOTT: Thank you, Ms.
4 Haraldsen.

5 Any follow-up, Ms. Lane?

6 RECROSS-EXAMINATION

7 BY MS. LANE:

8 Q. I just want to direct your attention to
9 School District 22, which is in the blue binder.
10 Just in reference to taking your son to Western
11 Psych, it is your contention that you only took him
12 because you believed he would not be able to return
13 without this evaluation?

14 A. That is what Mr. Kattan said, he needed to
15 go to Western Psych before he could return to school.

16 Q. It is your understanding that was to address
17 the alarming statements about burning people;
18 correct?

19 A. Yes.

20 Q. On this page, there are --

21 HEARING OFFICER McELLIGOTT: What page are
22 you on? I missed the reference.

23 MS. LANE: Page 7 of School District 22.

24 HEARING OFFICER McELLIGOTT: Thank you.

25 Q. The third E-mail down is an E-mail from your

1 P. [REDACTED] - Recross
2

account to Melissa Palmieri?

3 A. You said 7?

4 HEARING OFFICER MCCELLIGOTT: Ma'am, not Tab
5 7. Tab 22, and then in that document, Page 7 in the
6 lower right-hand corner, Page 7 of 25.

7 The witness is there, Ms. Lane, if you can
8 orient her.

9 Q. I am looking directing your attention to the
10 E-mail from you to Melissa Palmieri, and it is dated
11 October 27 of 2015?

12 A. Yes.

13 Q. You are touching base with this person
14 because you are unable to get in contact with the
15 principal; is that correct?

16 A. Yes.

17 Q. And you reference that you took [REDACTED] to
18 a meeting, what meeting are you referring to? Was
19 that a meeting with Western Psych or a meeting with
20 the Wesley Spectrum intake?

21 A. That was Wesley Spectrum, not Western Psych.

22 Q. Okay. And you're informing the school that
23 they are talking to you about a program and getting
24 [REDACTED] in?

25 A. Right.

1 **P. [REDACTED] - Recross**

2 Q. And you are keeping them updated on that?

3 A. Right.

4 Q. And you don't recall your son receiving
5 social skill groups or training prior to leaving
6 Keystone Oaks in 2015?

7 A. Social skills with whom?

8 Q. The School District staff.

9 A. With whom?

10 Q. You don't recall that, is the question?

11 A. No. Because was it one-on-one he was
12 getting social skills, or was it a bunch of people in
13 a social skills group?

14 HEARING OFFICER McELLIGOTT: Ma'am, don't
15 ask her questions. It is not a conversation. Does
16 that complete your answer?

17 THE WITNESS: Yes.

18 Q. I would like to direct your attention to
19 School District 21.

20 (School District Exhibit No. 21 was marked
21 for identification and admitted into evidence.)

22 HEARING OFFICER McELLIGOTT: The document
23 before that, Tab 21.

24 BY MS. LANE:

25 Q. Do you see, within that block, your child's

1 P. [REDACTED] - Recross

2 name referenced?

3 A. Uh-huh.

4 HEARING OFFICER McELLIGOTT: Yes or no?

5 THE WITNESS: Yes.

6 Q. And if you go to School District 20, the
7 exhibit prior to that in the blue binder --

8 (School District Exhibit No. 20 was marked
9 for identification and admitted into evidence.)

10 Q. This is a series of E-mails between school
11 staff, a Ms. Suzanne Lochie and Melissa Palmieri, and
12 the bottom E-mail asks for a list of students who are
13 in need of a social skills group; do you see where
14 that reference is?

15 A. Uh-huh.

16 HEARING OFFICER McELLIGOTT: Yes or no?

17 THE WITNESS: Yes.

18 Q. And at the top there is a blacked-out box,
19 and underneath that, listed as No. 4, your son's
20 name, [REDACTED]

21 A. Yes.

22 Q. And that this particular teacher is
23 informing Ms. Lochie that your son is in need of
24 social skills?

25 A. Yes.

1 P. [REDACTED] - Recross

2 Q. And should be a part of these groups?

3 HEARING OFFICER McELLIGOTT: Is there an
4 answer, ma'am?

5 THE WITNESS: Yes.

6 MS. LANE: I think that is everything.
7 Thank you.

8 HEARING OFFICER McELLIGOTT: Thank you, Ms.
9 Lane. Let me see if I have any questions for you. I
10 do have perhaps one or two clarifying questions.

11 When did [REDACTED] begin to attend Wesley
12 Spectrum? I don't think you testified to that. When
13 did he actually start going there?

14 THE WITNESS: He started Wesley Spectrum, I
15 want to say, in 2014. I want to say, '15. I think
16 '15 and he transitioned back in 2017.

17 HEARING OFFICER McELLIGOTT: Let me kind of
18 orient you to what I think I know, from what I have
19 seen, but I am looking to you for more precision.

20 It appears that in October of 2015,
21 beginning in October of 2015, there were meetings
22 between you and school officials and those meetings
23 about services and potentially having [REDACTED] not
24 attend school in the District, and those
25 conversations continued through November of 2015, and

1 **P. [REDACTED] - Recross**

2 in November of 2015, there was a NOREP, and if you
3 want to refer to it, it is at P-16, but there was a
4 NOREP, and the NOREP says, the Keystone Oaks School
5 District wants to send [REDACTED] to Wesley Spectrum.

6 When did he, actually, start going to Wesley
7 Spectrum as a student, every day, attending as a
8 student; do you recall?

9 THE WITNESS: I don't recall, sir.

10 HEARING OFFICER McELLIGOTT: That is the
11 only question I have for you. Let me pose a question
12 to counsel.

13 To the extent that I excuse Ms. S [REDACTED],
14 is there anything else we need to cover with her
15 about programming at Wesley Spectrum? In other
16 words, I don't want to bring her back -- let me say
17 it this way. This is Ms. S [REDACTED] opportunity to
18 testify, so to the extent that there is anything else
19 to ask her, because right now, in terms of Ms.
20 S [REDACTED]' testimony, the story ends in,
21 approximately, February of 2016, when the NOREP is
22 returned, at least in terms of the documentary
23 evidence.

24 So is there anything after that point that
25 we need to ask her, because this would be the

1 **P. [REDACTED] - Recross**

2 opportunity, so I want to make sure that there's
3 nothing that we need to cover with her while she is
4 here.

5 Ms. Haraldsen, is there anything that you
6 need to ask Ms. S [REDACTED] while she is here, beyond
7 February 2016?

8 MS. HARALDSEN: No, Your Honor.

9 HEARING OFFICER McELLIGOTT: Ms. Lane, is
10 there anything you need to ask Ms. S [REDACTED] beyond
11 that time?

12 MS. LANE: No.

13 HEARING OFFICER McELLIGOTT: With that, your
14 testimony has come to an end. Thank you for your
15 participation and being with us here this morning.
16 We appreciate that, and you are excused.

17 (Short recess taken.)

18 HEARING OFFICER McELLIGOTT: At,
19 approximately, 11:48 a.m., we are back on the record.
20 Everyone has had a chance to take a stretch and
21 comfort break, and we are ready for the next witness
22 to testify. He is seated in the witness chair, and
23 we will have him sworn.

24 JEFFREY KATTAN, a witness herein, having
25 been first duly sworn, was examined and testified as

1 P. [REDACTED] - Recross
2 follows:

3 HEARING OFFICER McELLIGOTT: Sir, you have
4 introduced yourself to us, but now under oath, can
5 you please tell us your name?

6 THE WITNESS: My name is Jeff Kattan,
7 K-A-T-T-A-N. I am the Principal of Keystone Oaks
8 Middle School.

9 HEARING OFFICER McELLIGOTT: By title, is
10 Mr. Kattan or Dr. Kattan appropriate?

11 THE WITNESS: Mr. Kattan is fine.

12 HEARING OFFICER McELLIGOTT: Mr. Kattan, you
13 were in attendance when I gave instructions before
14 Ms. S [REDACTED] testified; is that correct?

15 THE WITNESS: Yes.

16 HEARING OFFICER McELLIGOTT: Did you hear
17 those instructions?

18 THE WITNESS: Yes.

19 HEARING OFFICER McELLIGOTT: Would you like
20 me to repeat any or all of those instructions?

21 THE WITNESS: No.

22 HEARING OFFICER McELLIGOTT: Then call those
23 instructions to mind and bear them in mind as we
24 engage in this. You have seen how it will unfold,
25 and have some sense of the instructions in light of

1 **J. Kattan - Direct**

2 that, but please bear them in mind.

3 THE WITNESS: Thank you.

4 HEARING OFFICER McELLIGOTT: Does counsel
5 have a sense of who would like to lead questioning of
6 Mr. Kattan?

7 MS. MODELL: I would like to lead.

8 HEARING OFFICER McELLIGOTT: Will you lead
9 questioning, Ms. Modell?

10 MS. MODELL: Yes. I will lead questioning,
11 and I would like permission to question him as if on
12 cross.

13 HEARING OFFICER McELLIGOTT: I don't have
14 any issues with that, request is granted. Ms. Modell
15 will have questions for you first, and then we will
16 go to Ms. Lane to see if she has questions after
17 that. We had allotted two hours for this witness, 60
18 minutes of questioning for each of you, and we will
19 see where that takes us after 60 minutes or so.

20 At 11:49, whenever you're ready, Ms. Modell.

21 DIRECT EXAMINATION

22 BY MS. MODELL:

23 Q. Good morning, Mr. Kattan.

24 A. Good morning.

25 Q. Could you please describe your educational

1 **J. Kattan - Direct**

2 history for us, briefly?

3 A. Schooling, as well, or just professional?

4 Q. Schooling and professional.

5 A. So I originally graduated from Duquesne
6 University with a Bachelor's degree in physics. I
7 went back to school and got a Master's degree to
8 teach seventh through twelfth physics. I also went
9 back to school and received a Master's degree and
10 principal's certification.

11 My educational background includes eight
12 years of teaching physics. It also includes nine
13 years as an assistant principal, and now I've just
14 concluded my fourth year as a principal.

15 Q. When you did become familiar with [REDACTED]
16 [REDACTED]; do you recall?

17 A. Initially, just from his enrollment into our
18 school. I did not meet with him at that time. I
19 introduced myself, as I try to do with most new
20 students. I did not really have a lot of involvement
21 initially with him coming to our school in December
22 of 2013.

23 Q. As principal, you are responsible for
24 disciplinary issues; is that correct?

25 A. I am.